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6 UNITED STATES DISTRICT COURT
7 FOR THE EASTERN DISTRICT OF WASHINGTON
8 AT SPOKANE

9 JULIA SMITH, individually,

10 No. 2:21-cv-00264

11 Plaintiff,

12 DEFENDANT SAFEWAY INC.'S
13 ANSWER AND DEFENSES

14 vs.

15 SAFEWAY INC., a Delaware
16 Corporation doing business in
17 Washington,

18 Defendant.

19 Defendant Safeway Inc. answers plaintiff's Complaint for Damages as

20 follows.

21 **I. JURISDICTION AND VENUE**

22 1.1 Defendant admits jurisdiction is proper in the United States District
23 Court for the Eastern District of Washington.

1 1.2 Defendant admits venue is proper in the United States District Court
2 for the Eastern District of Washington.

II. PARTIES

4 2.1 Defendant lacks sufficient information to either affirm or deny the
5 allegations in paragraph 2.1 of plaintiff's Complaint and therefore denies the same.

6|| 2.2 Admit.

7|| 2.3 Admit.

8|| 2.4 Admit.

III. FACTS

10 || 3.1 Admit.

11 3.2 Admit Safeway has duties in accordance with statutory and common
12 law. The remaining allegations in paragraph 3.2 of plaintiff's Complaint contain
13 legal conclusions that do not require a written response. To the extent a response is
14 required, plaintiff's allegations are vague. Safeway lacks sufficient information to
15 either affirm or deny such allegations and therefore denies the same.

16 3.3 Admit Safeway has duties in accordance with statutory and common
17 law. The remaining allegations in paragraph 3.2 of plaintiff's Complaint contain
18 legal conclusions that do not require a written response. To the extent a response is

1 required, plaintiff's allegations are vague. Safeway lacks sufficient information to
2 either affirm or deny such allegations and therefore denies the same.

3 3.4 Deny.

4 3.5 Admit plaintiff was present at the Safeway store in East Wenatchee on
5 October 27, 2020. Safeway lacks sufficient information to either affirm or deny the
6 remaining allegations in paragraph 3.5 of plaintiff's Complaint and therefore denies
7 the same.

8 3.6 Deny.

9 3.7 Deny.

10 3.8 Admit plaintiff is the party asserting allegations against Safeway.

11 IV. CAUSES OF ACTION

12 4.1 Admit Safeway has duties in accordance with statutory and common
13 law. Deny remaining factual allegations.

14 4.2 Admit Safeway has duties in accordance with statutory and common
15 law. Deny remaining factual allegations.

16 4.3 Admit Safeway has duties in accordance with statutory and common
17 law. Deny remaining factual allegations.

18 4.4 Deny.

19 4.5 Deny.

1 4.6 Deny.

2 4.7 Deny.

3 **V. HARM AND LOSS**

4 5.1 Deny.

5 5.2 Deny allegations in paragraphs 5.2.1 – 5.2.3.

6 5.3 Deny allegations in paragraphs 5.3.1 – 5.3.7.

7 5.4 Deny allegations in paragraphs 5.4.1 – 5.4.3.

8 5.5 Deny allegations in paragraphs 5.5.1 – 5.5.3.

9 **VI. REQUEST FOR EXPEDITED TRIAL DATE**

10 Section VI. of plaintiff's Complaint contains statements which do not require
11 a written response. To the extent a response is required, Safeway denies any factual
12 allegations pertaining to the incident complained of.

13 **VII. PRAYER OF COMPLAINT**

14 Safeway denies plaintiff is entitled to the relief requested in her Prayer of
15 Complaint.

16 **OMNIBUS DENIAL**

17 Defendant denies any unanswered allegations in plaintiff's Complaint.

18 **DEFENSES**

19 Defendant asserts the following defenses:

1 1. Plaintiff's damages may have been caused, in whole or in part, by
2 plaintiff's own comparative fault and/or assumption of the risk.

3 2. Plaintiff may have failed to mitigate her damages.

4 3. Plaintiff's damages may have been caused, in whole or in part, by
5 parties over whom this answering defendant has no control, including plaintiff.

6 Defendant may be entitled to and requests an allocation of fault pursuant to RCW
7 4.22.070 and contribution and/or indemnification from any other liable party and/or
8 non-party pursuant to RCW 4.22.040. Discovery is ongoing.

9 4. Defendant may be entitled to an offset and/or setoff for any amounts
10 paid to or on behalf of plaintiff.

11 **RESERVATIONS**

12 Defendant reserves the right to assert defenses and/or amend this answer by
13 adding third-party complaints, cross-claims, or counterclaims as additional facts are
14 learned through discovery.

15 **PRAYER FOR RELIEF**

16 Defendant requests the following relief:

17 1. That the Complaint be dismissed with prejudice and without taxable
18 costs, and fees awarded to defendant;

2. That defendants' Answer be amended to conform to proof offered at the time of trial;

3. That the Court allocate fault consistent with RCW 4.22; and

4. For such other and further relief as the Court may deem just and proper.

DATED this 14th day of December, 2021.

FORSBERG & UMLAUF, P.S.



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